

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
(at Boston)

IN RE: NEW ENGLAND) Master File No. 1:13-MD-2419-RWZ
COMPOUNDING PHARMACY,) MDL Docket No. 2419
INC. PRODUCTS LIABILITY) This Document Relates To:
LITIGATION) *ALL CASES*
)
)

**DEFENDANT GDC PROPERTIES MANAGEMENT, LLC, AND STEVEN HIGGINS'S
JOINT STATEMENT REGARDING CHOICE OF LAW**

On May 28, 2015, this Court instructed all parties that wished to brief the issues of what law should apply to trials of the Tennessee and New Jersey Actions to file such motions by June 15, 2015. (*See* Dkt. No. 1905.) The Court also requested that the parties who had pending discovery motions state their position with respect to whether the Court's choice of law decision is relevant to the Court's decision on those pending motions.

In accordance with this Court's instruction, GDC Properties, LLC ("GDC") and non-party Steven Higgins, hereby jointly file this statement regarding their position as to the implications of the Court's choice of law decision on their pending discovery motions. While neither GDC nor Mr. Higgins takes a position on which law ought to apply to the actions relating to the New Jersey and Tennessee defendants, they hereby notify this Court that, in their view (as in the Trustee's view [per Doc. No. 1925] as the issue relates to the Trustee), any decision determining which law should apply to those actions could be relevant to this Court's decision on GDC's and Mr. Higgins's pending motions for protective order and/or to quash [Doc. Nos. 1862, 1836, 1837]. Specifically, a determination on which law will apply to those proceedings may affect the relevance of the information sought by the parties from GDC and Mr. Higgins and the propriety of taking their depositions, particularly as to matters relating to "comparative fault" under the applicable law.

Dated: June 4, 2015

Respectfully submitted,

/s/ Joshua A. Klarfeld

Joseph P. Thomas (OH #0040379)

Ulmer & Berne LLP

600 Vine Street, Suite 2800

Cincinnati, OH 45202

Tel: (513) 698-5000/Fax: (513) 698-5001

E-mail: jthomas@ulmer.com

Joshua A. Klarfeld (OH #0079833)

Ulmer & Berne LLP

1660 W.2nd Street, Suite 1100

Cleveland, OH 44113

Tel: (216) 583-7000/Fax: (216) 583-7001

E-mail: jklarfeld@ulmer.com

Attorneys for Defendant

GDC Properties, LLC

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been filed with the Clerk of the Court on June 4, 2015, using the CM/ECF system which sent notification of this filing to all ECF registered counsel of record via e-mail generated by the Court's ECF system.

/s/ Joshua A. Klarfeld